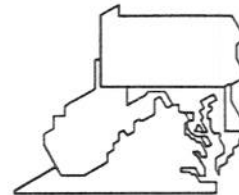




U.S. DEPARTMENT OF EDUCATION

3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19104



REGION III

STUDENT FINANCIAL
ASSISTANCE PROGRAMS

ROOM #16200

November 26, 1996

Dr. Paul E. Torgersen
President
Virginia Polytechnic Institute and State University
Burruss Hall
Blacksburg, VA 24061

RETURN RECEIPT REQUESTED
CERTIFIED MAIL
P 121 238 078

Dear Dr. Torgersen:

We have received and reviewed the October 10, 1996 response from Virginia Polytechnic Institute and State University (VA Tech or the institution) to our September 20, 1996 letter inquiring about the institution's compliance with the Campus Security Act. We also received additional clarifying information in an October 23, 1996 telephone conversation with Ms. Elyzabeth Holford, Director, EOAA. The purpose of this letter is to request further information and clarification from the institution prior to the completion of our review. We also ask that you confirm in writing the information we received from Ms. Holford. VA Tech must provide a response to this office on or before December 16, 1996.

1) The annual security report required under 34 CFR 668.47 (a) must include, among other disclosures, the following:

- a) procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported. 34 CFR 668.47 (a) (12) (ii);
- b) information on a student's option to notify proper law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel.
34 CFR 668.47 (a) (12) (iii);

- c) procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that -
 - 1) the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - 2) both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. 34 CFR 668.47 (a) (12) (vi); and
- d) sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses. 34 CFR 668.47 (a) (12) (vii).

We have reviewed the 1995 and 1996 reports and could not locate these required disclosures in the text of the reports. **In response to this letter, please indicate exactly where in the September 1, 1995 and the September 1, 1996 Campus Security Reports the statements which address and satisfy the requirements listed above are located (i.e., by page number and paragraph) .**

2) Federal regulations further require that an institution's annual security report must contain statistics covering the three calendar years preceding the year in which the report is disclosed. 34 CFR 668.47 (d) (1) (iii). This office has reviewed VA Tech's September 1, 1995 and September 1, 1996 Campus Security Reports, as submitted by the institution. For the September 1, 1996 report, VA Tech reported statistics for 1993/94, 1994/95, and 1995/96. The report states "the reportable year runs from September 1 - August 31. The regulation, however, requires that statistics be reported on a calendar year basis. For the September 1, 1995 report, it is unclear what reporting period was used. The 1995 and 1996 reports breakdown the statistics for the most recent year into three categories: 1) on campus crimes reported to campus police; 2) off campus crimes reported to other police agencies; and 3) crimes (on or off campus) reported to other university officials. For the second and third preceding years there is a single column. **Please confirm the reporting years used for each report and whether we have interpreted the statistical breakdown correctly. Please explain whether the three column breakdown for the immediate preceding year can be added to reach a single total without any duplicate reporting. In addition, explain what crimes are reported in the single column for the second and third preceding years. Does the figure include all three sources as broken out for the immediate preceding year, or is it limited to the on campus crimes reported to the campus police?**

3) The alleged incident involving Ms. Brzonkala occurred in September 1994 and in April 1995, she filed a complaint under VA Tech's Sexual Assault Policy. Our review of the institution's September 1, 1995 and September 1, 1996 Campus Security Reports indicates that the institution reported zero rapes for 1994. **Provide an explanation as to why this incident is not included in the institution's 1994 crime statistics. If you contend that her incident was included, the institution must state specifically where Ms. Brzonkala's incident is counted. Furthermore, the institution must provide all back up documentation that was used to compile the 1994 and 1995 rape statistics as reported in its September 1, 1995 and September 1, 1996 Campus Security Reports. Back up documentation can include, but is not limited to, local police and campus security incident reports, data collected by student counseling centers, reports made to housing directors or responsible staff at dormitories, etc.**

4) In response to the Department's September 20, 1996 letter, requesting the back up documentation specific to this incident, VA Tech submitted copies of two campus e-mails reporting on 1995 crime statistics. The first of the two e-mails is from Donna Lisker, Assistant Director/Sexual Assault Education Coordinator at The Women's Center. The second of the two e-mails is from Jerry L. Riehl, Assistant Dean of Students, reporting on violations from the University Judicial System for 1995. A comparison of the two e-mails, both reporting 1995 crime statistics, and the institution's September 1, 1996 Campus Security Report show differing numbers for the rapes reported in the final report for 1995.

SOURCE (Rapes reported for 1995)	"On Campus"	Off Campus/ Police*	"at VA Tech/ University officials"	"On- Campus"	"Off- Campus"	University Judicial System
9/1/96 Campus Security Report	2	0	12			
Lisker e-mail				8	11	
Riehl e-mail						6

* The Campus Security Report states that these off campus figures had been collected from three local law enforcement agencies. It further defines off campus as on University owned, controlled, or recognized facilities off the main campus.

a) VA Tech must clarify whether the 2 rapes reported on campus in the Campus Security Report are included in the 12 rapes reported to have occurred at VA Tech (which were not reported to police, but were reported to University officials), or whether these are separate and distinct instances (i.e., for a total of 14 rapes reported for 1995).

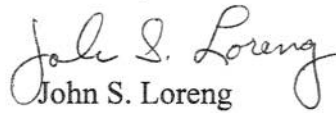
- b) The statistics from the Women's Center indicate that there had been a total of 19 rape complaints, yet the September 1, 1996 Campus Security Report shows only 14 rapes (assuming that there is no overlap between the 2 rapes reported "on campus" and the 12 reported to have occurred at VA Tech, but not reported to police). **VA Tech must provide an explanation as to why the other 5 rape complaints were not included in its Campus Security Report. The response should also explain why the Campus Security Report indicates 0 rapes off-campus, when the Women's Center reported 11 rapes off-campus for the same time period.**
- c) **VA Tech must provide with its response to this letter, an accounting of these statistics. The accounting must define how many of the incidents reported by the Women's Center were included in the Campus Security Report, how many of the incidents handled by the University Judicial System were included in the Campus Security Report, and what, if any, "overlap" of these figures occurs.**
- 5) In addition to the complaint from Security on Campus, Inc., a copy of which was provided to you with our September 20, 1996 letter, we also received a complaint from counsel for Ms. Brzonkala. In addition to complaining that her incident was excluded from the VA Tech's statistical reports, the complaint alleges that she was not informed of the results of the on-campus disciplinary proceedings involving her incident as required by 34 CFR 668.47 (a) (12) (vi) (A), but instead learned of the decision only after reading of it in a newspaper in August 1995. **The institution must confirm whether Ms. Brzonkala was informed by VA Tech of the decision of the July 1995 Judicial Committee, of the subsequent appeal of that decision, and/or the Judicial Committee's decision to set aside its original sanction against the accused. If she was not informed, explain why not; if you contend she was informed, provide supporting documentation.**
- 6) **VA Tech must provide copies of the Campus Security Reports disseminated by September 1, 1992, September 1, 1993, and September 1, 1994. Furthermore, the institution must provide all back up documentation that was used to compile the rape statistics as reported in its September 1, 1992, September 1, 1993, and September 1, 1994 Campus Security Reports. Back up documentation can include, but is not limited to, local police and campus security incident reports, data collected by student counseling centers, reports made to housing directors or responsible staff at dormitories, etc. In its back up documentation, VA Tech must also include all cases of alleged rape that were adjudicated by an institutional disciplinary board.**

Please submit your response to this letter to the following address:

Ms. Nancy P. Klingler
Area Case Director
Student Financial Assistance Programs
3535 Market Street, Room 16200
Philadelphia, PA 19104

Thank you in advance for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "John S. Loreng".

John S. Loreng
Team Leader
Northeast Quadrant, Philadelphia

cc: Dr. Lannie Cross
Vice President for Student Affairs

Dr. Julie Sina
Director of Financial Aid